

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  QWEST CORPORATION	DOCKET NO. RPU-01-6
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**ORDER GRANTING INTERVENTION AND  
MODIFYING PROCEDURAL SCHEDULE**

(Issued August 31, 2001)

On June 22, 2001, Qwest Corporation (Qwest) filed proposed prices for certain wholesale services and unbundled network elements (UNEs). In the cover letter accompanying the filing, Qwest states the filing is intended to establish prices for new UNEs that Qwest intends to offer through its Statement of Generally Available Terms and Conditions (SGAT). Qwest states that the proposed rates are for UNEs that were not included in the prior Qwest wholesale cost proceeding in Docket No. RPU-96-9.

To allow the Utilities Board (Board) time to fully consider the proposed increase, the filing was docketed on July 20, 2001, and a procedural schedule was established. Pursuant to that schedule, the deadline for intervening in this docket was August 17, 2001.

On August 17, 2001, McLeodUSA Telecommunications Services, Inc. (McLeod) filed a petition to intervene in this docket. McLeod alleges it has a substantial and direct interest in the subject matter of this proceeding.

No objection or other response to McLeod's petition to intervene has been filed. In the absence of any objection, the Board will grant the petition to intervene and the request to appear.

On August 28, 2001, McLeod filed a motion to expand this proceeding and to modify the procedural schedule. McLeod states that it did not receive copies of Qwest's cost models and studies used to support Qwest's proposal until August 22, 2001, and that a review of that information shows that Qwest has limited its filing to prices for new UNEs and has excluded consideration of prices for unbundled loops and switching rates. McLeod notes that in a prior Qwest docket, Docket No. RPU-00-1, McLeod's witness testified that Qwest's UNE loop and switching prices in Iowa are too high and should be revisited. McLeod also notes that in the same docket the Board issued a notice that it intended to consider those issues (and others) in Docket No. RPU-00-1, but subsequently declined to expand that proceeding due to limited time for deaveraging Qwest's UNE loop price and a ruling by the 8th Circuit Court of Appeals, vacating the federal UNE pricing rules. McLeod suggests it would be appropriate to expand this proceeding to include consideration of all of Qwest's UNE pricing, as the Board is not under any federal deadline (as it was in Docket No. RPU-00-1). McLeod asks that the Board direct Qwest to re-file its TELRIC cost studies for all UNEs, including loops and switching elements, and then give the responding parties 60 days from the date of Qwest's filing to file responsive testimony.

If the Board does not grant McLeod's motion to expand this proceeding, McLeod requests that the Board modify the existing procedural schedule. McLeod requests a full 30 days from the date it received the Qwest cost studies to prepare its testimony, which is an extension of three weeks on the existing schedule, from August 31, 2001, to September 21, 2001.

On August 29, 2001, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response to McLeod's motion. Consumer Advocate agrees that the Board should expand the scope of this proceeding to reconsider the costing methodology and UNE prices previously established for Qwest. Consumer Advocate states that its witness in Docket No. RPU-00-1 also testified that Qwest's existing UNE loop rate is substantially above its actual loop costs and that the methodology used to set the existing rate deviated from TELRIC principles. Consumer Advocate also argues that the Board is not faced with a federal deadline for completion of this proceeding, as it was in Docket No. RPU-00-1, and the Board therefore can and should modify the procedural schedule to allow Qwest to file, and the other parties to consider, cost evidence pertaining to all of Qwest's UNEs.

On August 30, 2001, Qwest filed a response to McLeod's motion to modify the procedural schedule. Qwest states that it has no objection to revising the procedural schedule to give McLeod additional time to file its direct testimony, so long as Qwest's time to prepare and file rebuttal testimony is not shortened. Qwest acknowledges that this may require re-scheduling the hearing in this matter.

Qwest emphasizes that its response addresses only the motion to modify the procedural schedule; Qwest intends to respond to the motion to expand the proceeding at a later date.

The Board will grant McLeod's motion to modify the procedural schedule and establish an entirely new schedule in this proceeding. The Board notes that McLeod waited until the last day to intervene, some eight weeks after Qwest's filing and four weeks after the Board's order establishing the procedural schedule. McLeod's delay in intervening created the lack of time of which McLeod now complains. Normally, intervenors (even timely ones) must take the schedule as it is set. However, in the particular circumstances of this case and in light of the pending motion to expand the scope of the proceeding, the Board finds it is appropriate to modify the procedural schedule. The Board will consider the motion to expand the scope of the proceeding after it has heard from Qwest and the other parties.

**IT IS THEREFORE ORDERED:**

1. The petition to intervene filed by McLeodUSA Telecommunications, Inc., on August 17, 2001, is granted.
2. The procedural schedule in this docket is modified as follows:
  - a. On or before September 6, 2001, Qwest shall file its response to McLeod's motion to expand the proceeding. Any replies to Qwest's response must be filed no later than September 11, 2001.
  - b. The parties shall notify the Board prior to November 6, 2001, if they desire a prehearing conference.

c. Consumer Advocate and any intervenors shall file prepared direct testimony, with underlying workpapers and exhibits, on or before September 21, 2001. If a party references a data request in its prepared testimony, the data request shall be filed as an exhibit.

d. Qwest shall file its rebuttal testimony, with underlying workpapers and exhibits, on or before October 19, 2001.

e. Consumer Advocate and any intervenor shall file rebuttal testimony on any of issues raised initially in that party's direct testimony and responded to by another party, on or before November 5, 2001.

f. The parties shall file a joint statement of the issues on or before November 7, 2001.

g. All parties may file optional prehearing briefs on or before November 7, 2001.

h. A hearing shall be held beginning at 9 a.m. on December 4, 2001, for the purpose of receiving testimony and the cross-examination of all testimony. The hearing shall be held in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. The parties shall appear one-half hour prior to the time of the hearing for the purpose of marking exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

i. The parties may file simultaneous initial briefs on or before  
December 21, 2001.

j. All parties who filed initial briefs may file reply briefs on or before  
January 4, 2002.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Mark O. Lambert

Dated at Des Moines, Iowa, this 31st day of August, 2001.